

Express Mail No. EV 593389108 US  
 Attorney Docket No.: (10759-0161)

Serial No.: 10/238,390

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mittleman, et al. :  
 : Art Unit: 3727  
 Serial No.: 10/238,390 :  
 : Examiner: Tri M. Mai  
 Filed: September 10, 2002 :  
 :  
 For: PIVOTAL HANDLE FOR :  
 TOWABLE BAGGAGE :

DECLARATION UNDER 37 CFR 1.132

Mail Stop: Amendment  
 P.O. Box 1450  
 Commissioner for Patents  
 Alexandria, VA 22313-1450

I, Todd Siwak, declare and state as follows:

1. I have reviewed and understand the specification and drawings of U.S. Application 10/238,390 (hereafter "Subject Application").
2. I have reviewed and understand the claims of the Subject Application (hereafter "Claimed Invention").
3. I was a founding partner/owner of TRG Accessories L.L.C. (hereafter "TRG") since TRG's inception prior to 2001, and am currently a senior manager within TRG.
4. I have reviewed and understand the subject matter described in U.S. Patent 6,508,344 to Lien Ching Lu, titled "Handle Structure for Turning and Adjusting Direction" issuing January 21, 2003 from application serial number 10/028,679 filed on December 28, 2001 (hereafter "Lu Patent").

**5. FACTS AND DOCUMENTARY EVIDENCE**

6. Factual evidence proving the conclusions made in this Declaration can be found hereafter and in the attached documents (Appendices A-C).
7. At least as early as the middle of 2001, I became involved in a project at TRG to develop a new pivotal handle assembly (hereafter "TKO Handle System") for a towable piece of baggage.
8. My responsibilities at TRG, at least as early as the middle of 2001, included assisting the inventors of the Subject Application and TRG to identify a low-cost manufacturer for the TKO Handle System.

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9. The named inventors on the Subject Application explained their concept(s) for the TKO Handle System to me at least as early as the middle of 2001.
10. The TKO Handle System explained to me, at least as early as the middle of 2001, by the inventors of the Subject Application embodied the Claimed Invention of the Subject Application.
11. Appendix A attached hereto includes a series of sketches, prepared on or about June 8, 2001, that illustrate the concepts for the TKO Handle Assembly and the Claimed Invention that were explained to me by the inventors of the Subject Application.
12. The sketches at appendix A illustrate, among other features, a piece of baggage, an arm portion and a towing handle rotatably connected to the arm portion, a locking mechanism for unlocking and locking the towing handle relative to the arm portion, wherein the towing handle can rotate about at least two pivot axes relative to the arm portion and wherein the locking mechanism provides for at least two positions in which the towing handle can be locked relative to the arm portion.
13. Appendix B attached hereto include a computer generated design drawing, prepared on or about August 9, 2001, that illustrate the concepts for the TKO Handle System and the Claimed Invention that were explained to me by the inventors of the Subject Application.
14. Appendix C attached hereto includes screen shots of a directory of files saved on a CD on or about October 17, 2001 including JPEG images constituting photographs taken on or about October 17, 2001 of a completed, operational prototype of the TKO Handle System that embodied the arm portion, towing handle and locking mechanism of the Claimed Invention of the Subject Application, and was intended for use on a piece of baggage with at least one wheel.
15. On information and belief, prior to December of 2001, TRG contacted Lien Ching Lu in connection with determining whether Mr. Lu's company, Ting Cheng Co., Ltd. (hereafter "TC") would be a satisfactory manufacturer of the TKO Handle System.
16. On information and belief, TRG explained the TKO Handle System and Claimed Invention to Mr. Lu and other individuals at TC in order for TC to provide a proposal to manufacture the TKO Handle System.
17. On December 28, 2001, unknown to TRG, TC filed U.S. patent application 10/028,679 (now the Lu Patent), which describes the Claimed Invention of the Subject Application that was embodied in the TKO Handle Assembly.
18. On September 10, 2002, TRG filed the Subject Application.
19. To the extent that the Lu Patent includes subject matter describing the Claimed Invention of the Subject Application, Lien Ching Lu, the individual named as the inventor on the Lu Patent, did not invent, and did not provide any inventive contribution to, such subject matter.

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20. To the extent that the Lu Patent includes subject matter describing the Claimed Invention of the Subject Application, Lien Ching Lu derived and copied such subject matter from the named inventors of the Subject Application.
21. To the extent that the Lu Patent includes subject matter describing the Claimed Invention of the Subject Application, the Lu Patent does not constitute prior art against the Claimed Invention, because the Lu Patent describes the work of the inventors of the Subject Application, not the work of another person.

### DECLARATION

As the person signing below:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application and any patent issued thereon.

### SIGNATURE

SOLE INVENTOR

Full Name: Todd Siwak

Signature: Todd Siwak Date: 1-12-05

Residence: #3 DROMARA ROAD ST. LOUIS MO 63124

Citizenship: US

Post Office Address: SAME

The following are attached and made a part hereof:

Attachment A: June 8, 2001 sketches of TKO Handle System.

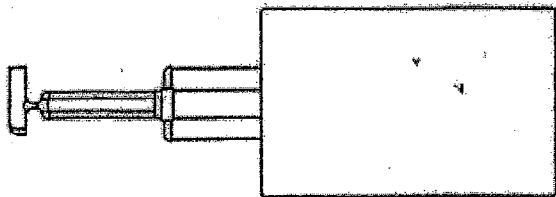
Attachment B: August 9, 2001 computer generated image of TKO Handle System.

Attachment C: October 17, 2001 photographs of prototype for TKO Handle System.

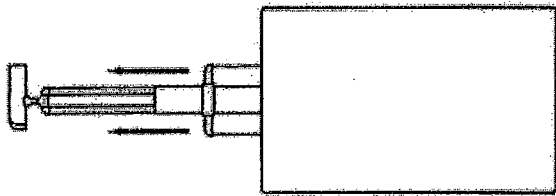
# **APPENDIX A**



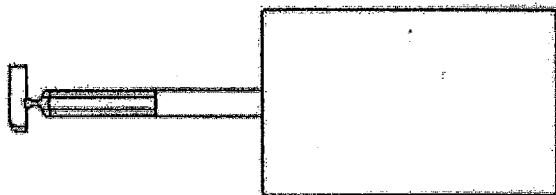
12



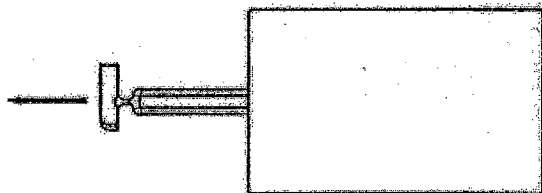
set briefcase  
on top



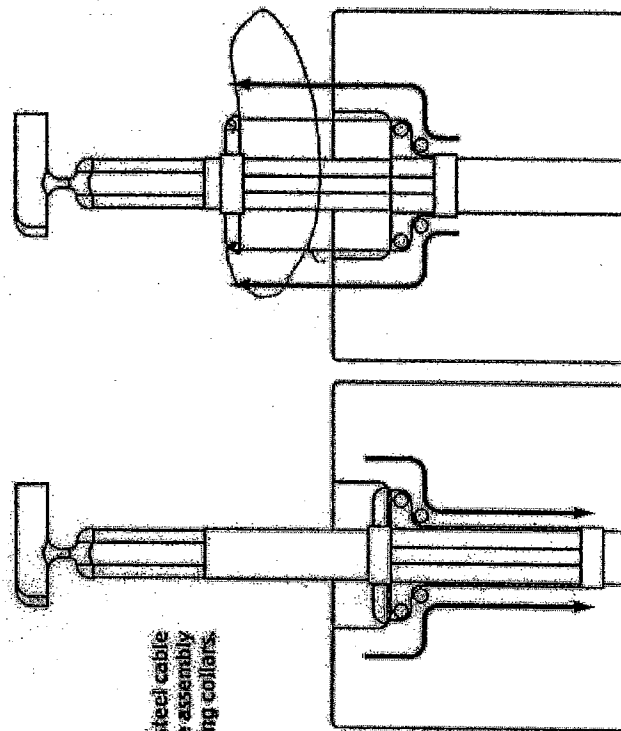
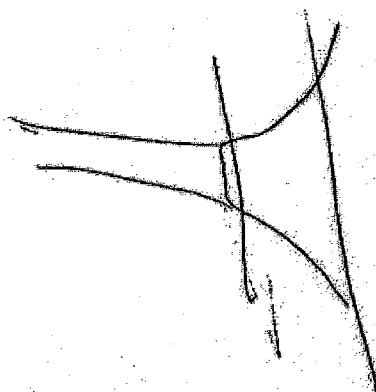
or  
pull up collar



use in motor-position

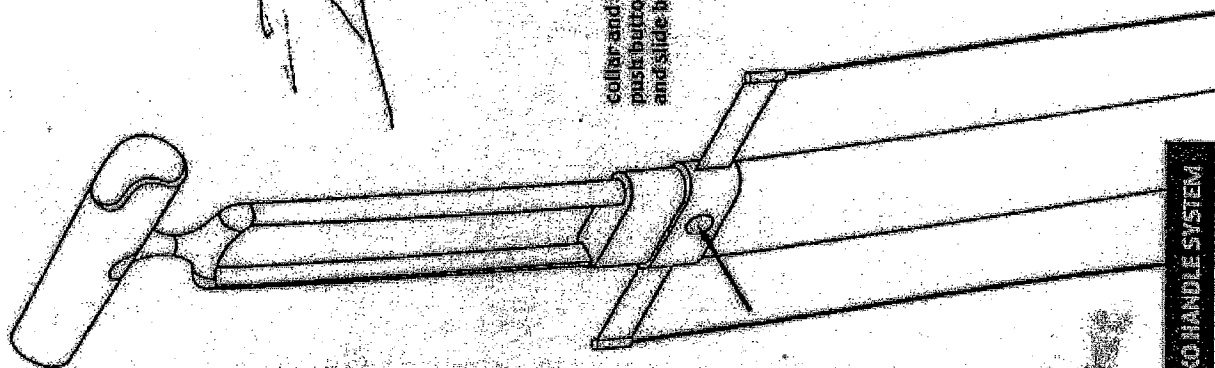


pull out handle



rollers guide the steel cable  
in and out of the assembly  
by two sliding collars.

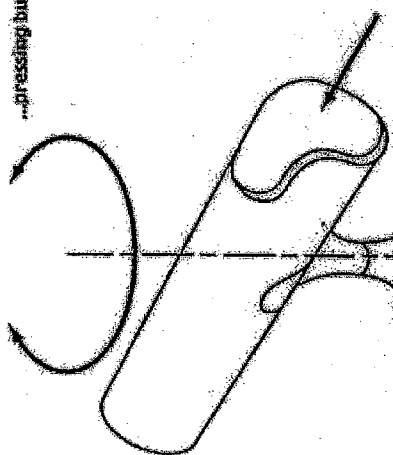
collar and slide assembly.  
push button to release  
and slide back down.



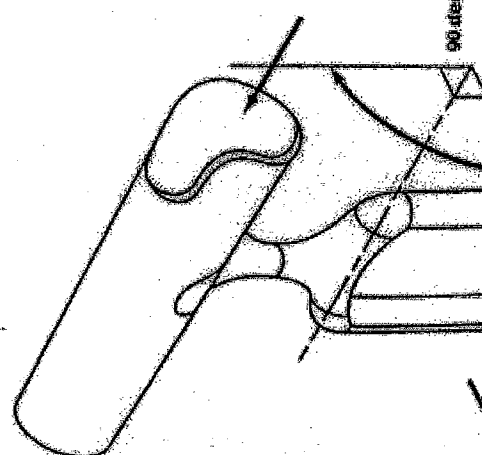
COLLINEO1cm

SWISS ARMY: TWO HANDLE SYSTEM

360 degree full rotation while...  
...pressing button



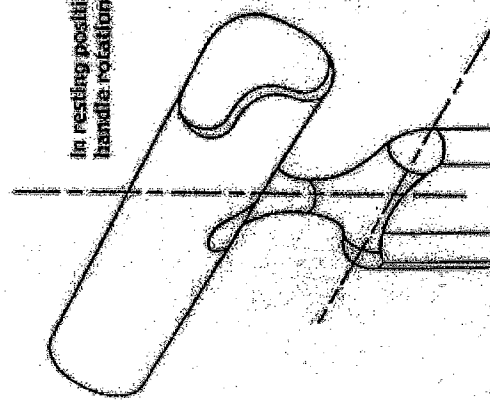
90 degree rotation...  
...while pressing button



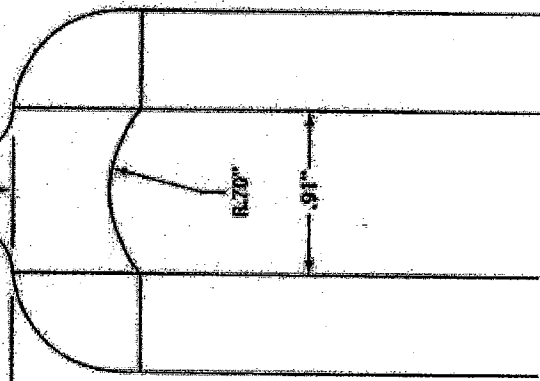
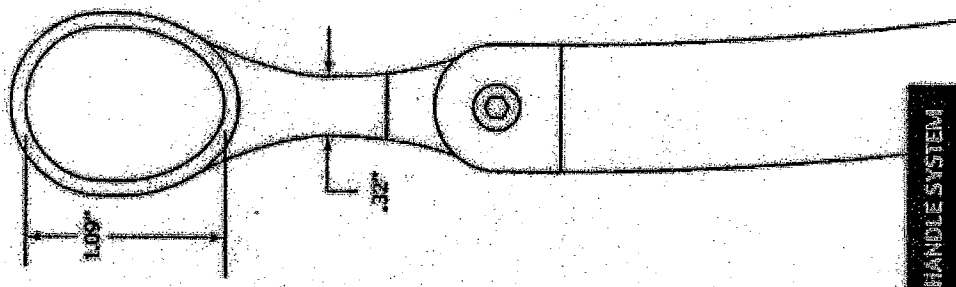
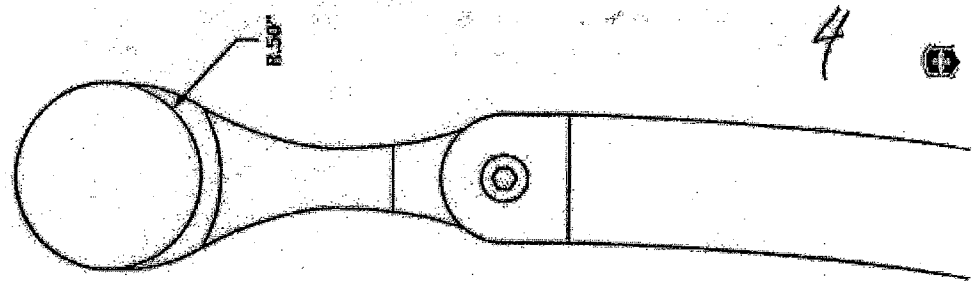
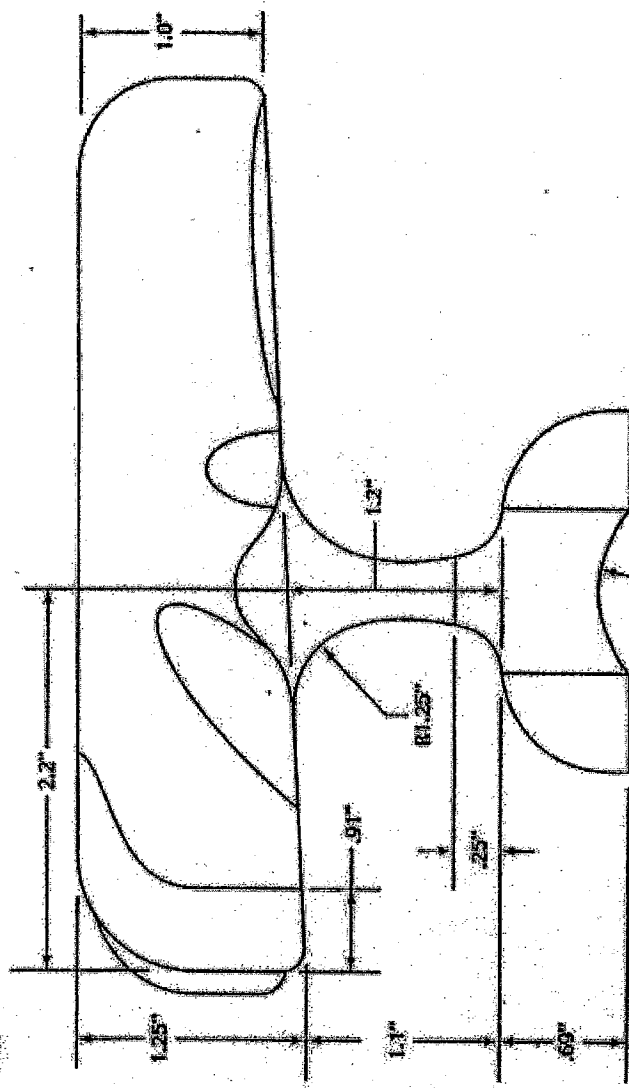
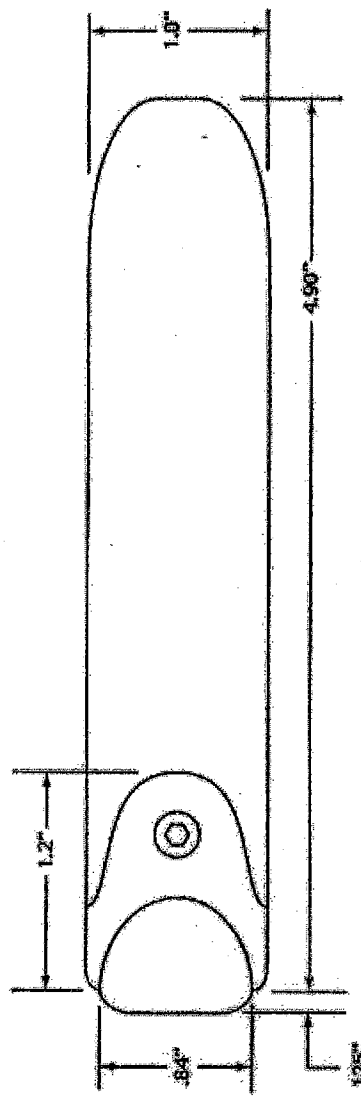
front of case



In resting position,  
handle rotation is locked



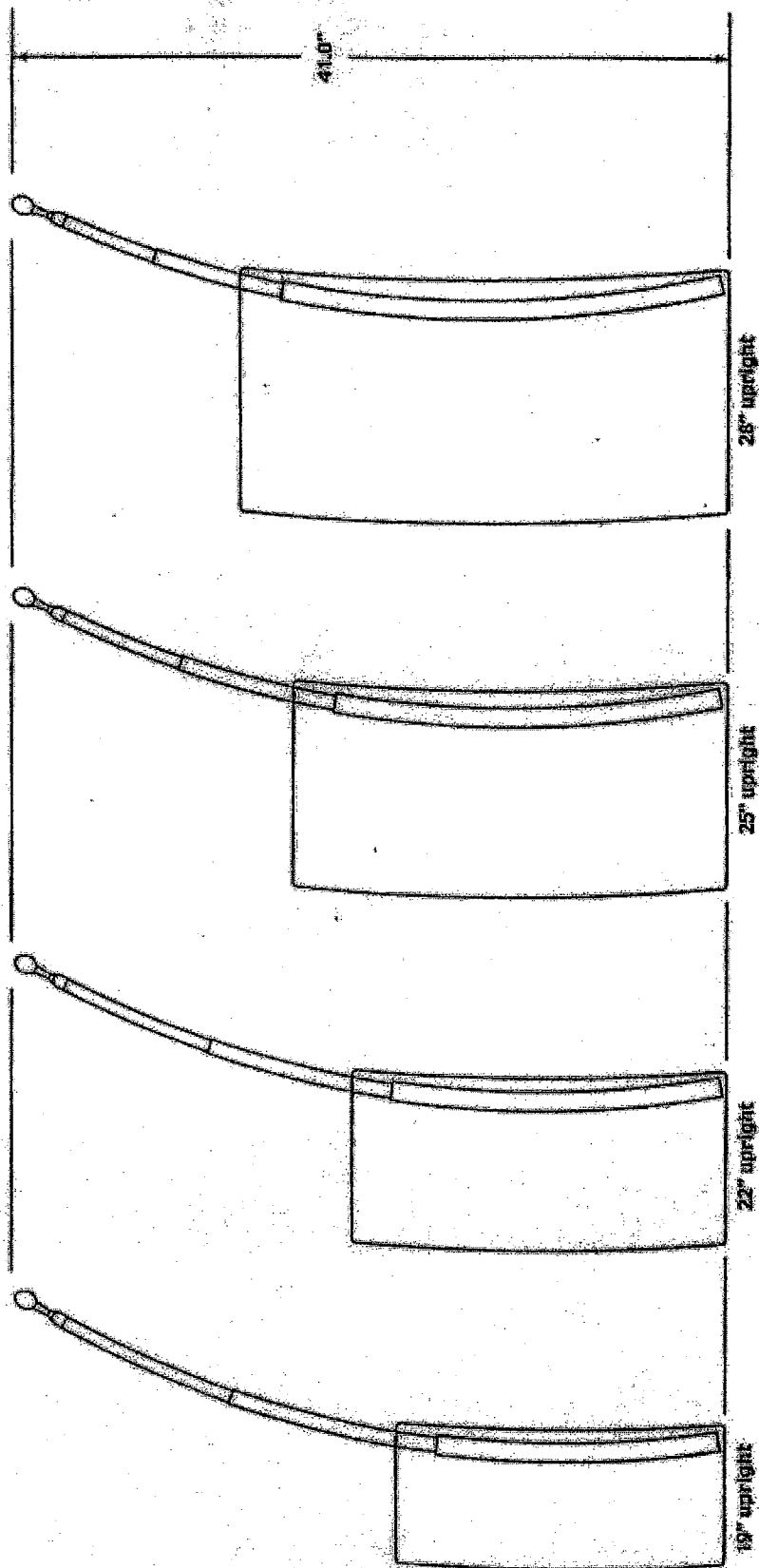
4



08 JUNE 01cm

SWISS ARMY : TKO HANDLE SYSTEM

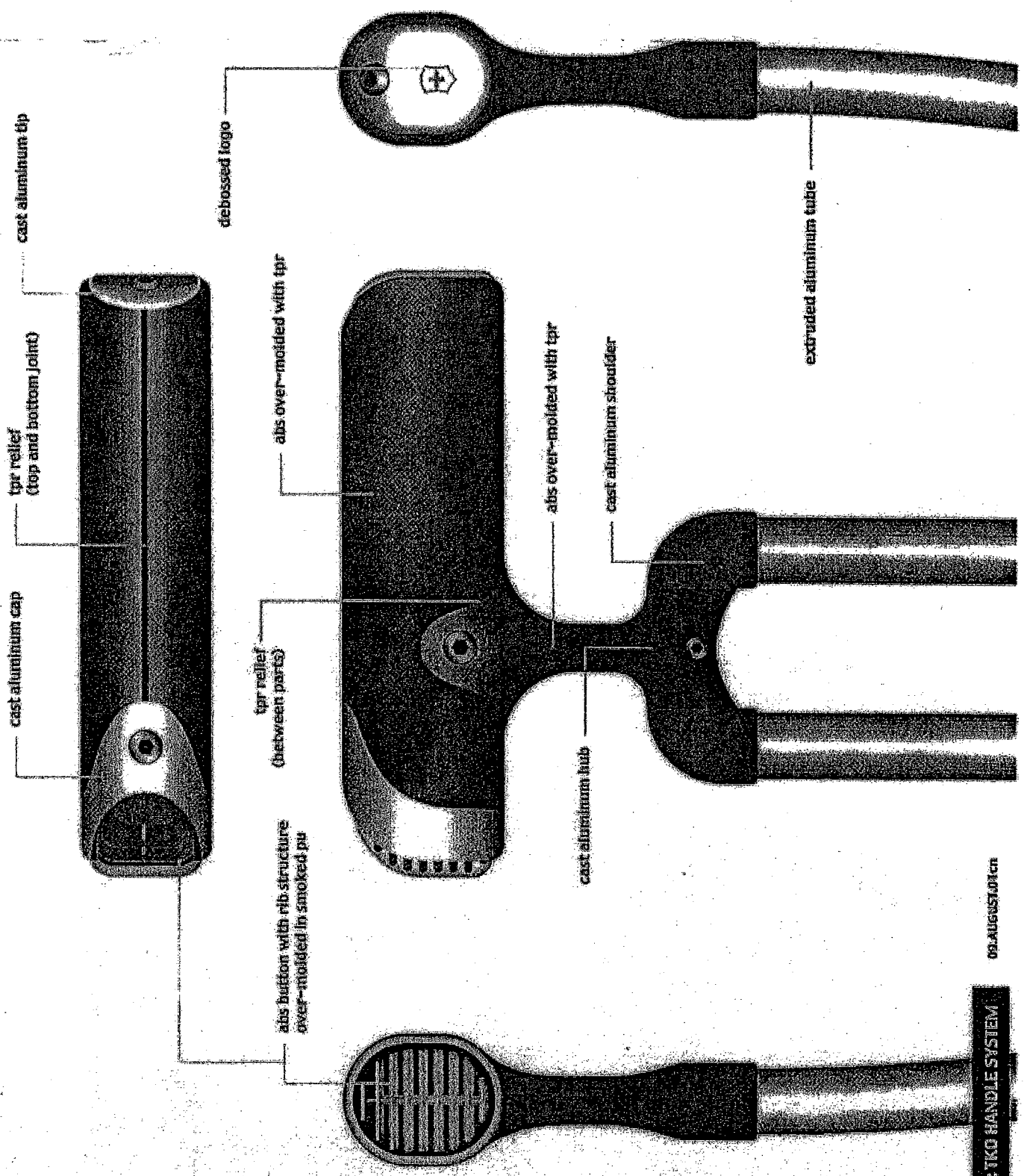
150-cm radius and three stages on all handle assemblies



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## **APPENDIX B**



## **APPENDIX C**

